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Washington, D.C. 20463

2009 OCT 29 AM 9:19

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 6192
DATE COMPLAINT FILED: 5/08/09
DATE OF NOTIFICATION: 5/14/09
LAST RESPONSE RECEIVED: 7/06/09
DATE ACTIVATED: 8/11/09

STATUTE OF LIMITATIONS: 1/09/13-
10/22/13

COMPLAINANT:

Stephen Jellen

RESPONDENTS:

Madison County Democrat Central
Committee
SimmonsCooper LLC
Lakin Law Firm P.C.

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 431(4)(C)
2 U.S.C. § 433(a)
2 U.S.C. § 434(a)
2 U.S.C. § 441a(a)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b(a)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

Internal Revenue Service

I. INTRODUCTION

The Complaint alleges that the Madison County Democrat Central Committee ("MCDCC" or "the Committee"), a local committee of the Illinois Democratic Party, failed to register and report to the Federal Election Commission ("the Commission") as a federal political committee during calendar year 2008 despite exceeding the thresholds in the Federal Election Campaign Act of 1971, as amended ("the Act"). Complainant

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1 alleges, based upon a review of MCDCC's state disclosure reports, that the Committee
2 exceeded the thresholds when it made a \$1,000 contribution to a federal candidate and
3 spent more than \$5,000 on campaign materials that promoted federal and nonfederal
4 candidates. The Complaint also names as Respondents SimmonsCooper LLC
5 ("SimmonsCooper") and Lakin Law Firm P.C. ("LLF"), asserting that they made, and
6 MCDCC accepted, excessive and possibly prohibited corporate contributions. Finally,
7 the Complaint asserts that MCDCC accepted numerous other contributions from
8 corporations and labor unions in violation of the Act.

9 Respondents deny any violations of the Act and seek dismissal of the Complaint.
10 The available information indicates that MCDCC did not meet any of the Act's political
11 committee status thresholds requiring registration and reporting as a political committee.
12 Thus, the Committee is not subject to the Act's limitations and prohibitions on
13 contributions received. Accordingly, Respondents did not make or receive any excessive
14 or impermissible corporate or labor organization contributions. Therefore, we
15 recommend that the Commission find no reason to believe that Madison County
16 Democrat Central Committee violated 2 U.S.C. §§ 433(a), 434(a), 441a(f) or 441b(a),
17 and no reason to believe that SimmonsCooper LLC or Lakin Law Firm P.C. violated
18 2 U.S.C. §§ 441a(a) or 441b(a).

19 **II. FACTUAL AND LEGAL ANALYSIS**

20 **A. Political Committee Status**

21 MCDCC is not registered with the Commission. Citing MCDCC's state
22 disclosure reports, Complainant alleges that the Committee contributed \$1,000 to Friends
23 for Daniel Davis, a federal candidate committee, and spent over \$5,000 on "campaign

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1 literature, mailings, media advertisements and web pages, as well as rallies, fundraisers
2 and voting promotion of both federal and nonfederal candidates” during 2008.
3 Complaint at 1. Therefore, the Complaint asserts, MCDCC was required to register with
4 the Commission as a political committee. *Id.* at 1-2. The Act defines “political
5 committee” to include any local committee of a political party that does any of the
6 following during a calendar year: (1) makes more than \$1,000 in contributions or
7 expenditures; (2) receives more than \$5,000 in contributions; or (3) spends more than
8 \$5,000 on exempt party activities. 2 U.S.C. § 431(4)(C); 11 C.F.R. § 100.5(c). A local
9 party committee that achieves federal political committee status by exceeding the section
10 431(4)(C) threshold must register with the Commission within ten days and begin
11 disclosing its financial activities. 2 U.S.C. §§ 433(a) and 434(a); 11 C.F.R. §§ 102.1(d)
12 and 104.1. As set forth below, the available information does not suggest that MCDCC
13 met any political committee status threshold.

14 MCDCC acknowledges that it made a single \$1,000 contribution to Friends for
15 Daniel Davis, a federal candidate committee. MCDCC Response at 3. However,
16 MCDCC contends that this amount does not exceed the Act’s threshold for political
17 committee status, and so the Committee was not required to register and file reports as a
18 federal political committee. *Id.* In addition, MCDCC asserts that Complainant’s
19 allegation that the Committee paid for campaign materials promoting federal and
20 nonfederal candidates is vague and unsubstantiated. *Id.*

21 Registration as a federal political committee is required under the Act when a
22 local party committee makes more than \$1,000 in contributions or expenditures during a

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1 calendar year. *See* 2 U.S.C. § 431(4)(C). MCDCC disclosed a single \$1,000 contribution
2 to a federal candidate, but this contribution did not exceed the \$1,000 threshold for 2008.
3 In addition, although MCDCC's disclosure reports reflect numerous disbursements for
4 mailers, election day expenses, and county board literature during 2008, the available
5 information does not indicate that MCDCC met either the \$1,000 expenditure or \$5,000
6 exempt activity thresholds for political committee status. *See* 2 U.S.C. § 431(4)(C).
7 Complainant did not provide copies of any communications sponsored by MCDCC and
8 our review of other available information does not reveal any such communications.
9 Accordingly, we recommend that the Commission find no reason to believe that the
10 Madison County Democrat Central Committee violated 2 U.S.C. §§ 433(a) or 434(a).
11 *See* MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.)
12 Statement of Reasons (speculative information absent personal knowledge is insufficient
13 to meet the threshold for "reason to believe").

14 **B. Alleged Excessive and Impermissible Contributions**

15 Citing MCDCC's state disclosure reports, Complainant alleges that the
16 Committee received excessive and possibly prohibited contributions from
17 SimmonsCooper and LLF. Complaint at 2. The Complaint further notes that the
18 Committee disclosed "contributions by many other corporations and labor unions." *Id.*
19 SimmonsCooper acknowledges making contributions to MCDCC during the calendar
20 year 2008 in the amount of \$50,800. SimmonsCooper Response at 1. LLF
21 acknowledges that it made two monetary contributions and an in-kind contribution to
22 MCDCC, totaling \$10,594. LLF Response at 2. Both contend that their contributions

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1 were intended for non-federal activities, *see* SimmonsCooper Response at 1 and LLF
2 Response at 2, and the available information does not suggest otherwise. *See* 2 U.S.C.
3 § 431(8)(A) (the Act defines "contribution" to include "anything of value made by any
4 person for the purpose of influencing any election for Federal office"). In view of the
5 conclusion above that MCDCC did not meet any of the Act's thresholds for political
6 committee status, the Committee is not subject to the Act's limitations and prohibitions
7 on contributions received. Accordingly, the contributions made by Simmons Cooper,
8 LLF, and the various other corporations and labor organizations do not appear to be
9 subject to the Act's limits and prohibitions.¹

10 Because the available information does not indicate that SimmonsCooper or LLF
11 made excessive or corporate contributions, we recommend that the Commission find no
12 reason to believe that SimmonsCooper LLC or Lakin Law Firm P.C. violated 2 U.S.C.
13 §§ 441a(a) or 441b(a). Because the available information does not indicate that MCDCC
14 accepted excessive or corporate contributions, we recommend that the Commission find
15 no reason to believe that Madison County Democrat Central Committee violated 2 U.S.C.
16 §§ 441a(f) or 441b(a).

17 **III. RECOMMENDATIONS**

- 18 1. Find no reason to believe that Madison County Democrat Central
19 Committee violated 2 U.S.C. §§ 433(a) and 434(a).
20
21 2. Find no reason to believe that Madison County Democrat Central
22 Committee violated 2 U.S.C. §§ 441a(f) or 441b(a).
23
24 3. Find no reason to believe that SimmonsCooper LLC or Lakin Law
25 Firm P.C. violated 2 U.S.C. §§ 441a(a) or 441b(a).
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¹ Illinois statute 10 ILCS 5/9-1 et. seq. (2008) permits candidates for state and local office to raise money from individuals, partnerships, and corporations without limits or restrictions on the amounts of such contributions.

4. Approve the attached Factual and Legal Analyses.
5. Approve the appropriate letters.
6. Close the file.

Thomasenia P. Duncan
General Counsel

10-28-09
Date

BY: Kathleen M. Guith
Kathleen M. Guith
Deputy Associate General Counsel
for Enforcement

Mark Allen
Mark Allen
Assistant General Counsel

Shana M. Broussard
Shana M. Broussard
Attorney

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